

9 FAM 41.81 Procedural Notes

(TL:VISA-2 8-30-87)

9 FAM 41.81 PN1 Application for Nonimmigrant K Visa

In addition to Form OF-156, Nonimmigrant Visa Application, in duplicate, and Form OF-156 Supplement in single copy, [see 9 FAM 41.81 Exhibit IV], the following records and documents are required:

(a) Valid passport (except for a person coming under 22 CFR 41.2(a), (b), (h));

(b) Birth certificate;

(c) Evidence of termination of any prior marriage of beneficiary (if the petition does not indicate that such evidence was previously submitted);

(d) Police certificates (in addition to supplying a police certificate from the present place of residence, the applicant must also present police certificates from any place or places of residence for 6 months or more since attaining the age of 16); and

(e) Form OF-157, Medical Examination, in duplicate (a third copy is required if the alien has a Class A or B condition involving tuberculosis). An accompanying child requires a valid passport (or may be included in the parent's passport), a birth certificate, and a medical examination. If a child is 16 years of age or over, police certificates are required. No chest X-ray or serologic tests are required if the child is under 15 years of age.

9 FAM 41.81 PN2 Evidence of Support

A K visa applicant and any accompanying children must meet the public charge requirement of INA 212(a)(15) like any other visa applicant. Evidence of support is usually requested by the consular officer. There is, however, no absolute requirement that an affidavit of support or other public charge documentation be presented. It is only necessary that the consular officer be able to conclude that the alien is not likely to become a public charge. It would not be unusual, therefore, for a healthy alien of working age, applying alone, to be able to establish eligibility during the visa interview without the need for substantiating documentation.

9 FAM 41.81 PN3 Processing of a K Visa Application

9 FAM 41.81 PN3.1 Applicant Informed of Requirements for Visa

Upon receipt of a K visa petition approved by INS, the consular officer should promptly send to the applicant, under cover of a form letter [9 FAM 41.81 Exhibit III], two copies of Form OF-156 and one copy of the Supplement to Form OF-156 [9 FAM 41.81 Exhibit IV], Form OF-179, Biographic Data for Visa Purposes [9 FAM 41.81 Exhibit V], and instructions for the medical examination. The "visitor visa information" half of Form OF-156 should be removed before mailing.

9 FAM 41.81 PN3.2 Clearance Procedures

Upon receipt of the completed Form OF-156 and Supplement and Form OF-179, the consular officer should initiate clearance procedures.

If the applicant, since attaining the age of 16, has resided for 6 months or more in a country other than the one of visa application, the security clearance procedures used in immigrant visa cases are to be followed.

Clearance requests should be made on Form OF-166, Visa Transmittal Letter, which transmits Form OF-179, clearly marked "FIANCE(E)--URGENT." When the sending post is not the post of normal residence of the applicant, a notation of this fact should be made under "additional remarks" on the Form OF-166 sent to the post of normal residence. In such a case, the receiving post will process the clearance request as if the applicant were applying for an immigrant visa at the post. Receiving posts other than the post of normal residence make the same checks on receipt of Forms OF-179 marked "FIANCE(E)" as they do in Form G-325A, Biographic Information, cases. [See 9 FAM PART IV.] Negative as well as positive replies are required. Priority handling is required. In no case is the reply to be delayed more than 30 days. If information is developed from a file check indicating that a further (and possibly time-consuming) investigation is warranted, which would be likely to delay a reply to the clearance request for more than 30 days, the sending post is to be notified telegraphically.

9 FAM 41.81 PN3.3 Interview of Alien To Determine Eligibility

The alien is to be invited for an interview when: (1) security clearances, including replies from other posts, have been completed;

(2) the alien has reported that all of the necessary documents have been collected; and (3) the medical examination has been completed and the report is or will be available before the interview. The consular officer must direct the interview to determine eligibility as if the alien were applying for an immigrant visa in the immediate relative category.

The supplement to the OF-156 and the certification of legal capacity and intent to marry, which is contained therein, are both to be sworn to and signed before the consular officer. If the applicant is eligible under immigrant standards, a K visa shall be issued gratis, valid for a single entry and a 6-month period. The alien's fingerprints are not required.

9 FAM 41.81 PN3.4 Use of Stamped Entries for K Aliens

Issuance of a K visa is evidenced by the usual nonimmigrant stamp placed in the alien's passport. If the applicant comes under 22 CFR 41.2(a), (b), or (h) regarding waiver of passport requirements, Form OF-232, Unrecognized Passport or Waiver Cases, is to be used for this purpose. Posts which are authorized to use "Bearer(s)" stamps may use such stamps in issuing K visas.

9 FAM 41.81 PN3.5 Procedures for Minor Child or Children of K Visa Applicant

If the applicant is to be accompanied by a minor child or children, Form OF-156 in duplicate, a medical examination, and a birth certificate are required for each child. The children may be included in the principal alien's visa or issued separate visas if they present separate passports. In the latter instance, the name of the principal alien is to be written immediately below the lower margin of the visa; for example, "Principal alien: Mary Brown."

9 FAM 41.81 PN3.6 Steps To Be Taken on Issuance of K Visa

When the consular officer issues a K visa to an applicant who was previously found entitled to immigrant status and in whose behalf a Form OF-224, Immigrant Visa Control Card, was prepared, the following procedures must be undertaken:

(a) Annotate the white copy of Form OF-224B showing the issuance of a K visa and the date of issuance, and mark the card for destruction in 1 year [see (e) below];

(b) remove all copies of Form OF-224B from the numerical control file and attach to the white copy of Form OF-224B [see (e) below];

(c) if the post issuing the K visa is not an immigrant visa issuing post and the alien's OF-224B forms are therefore physically in the files of another post, inform the other post of the K visa issuance to permit compliance with (a) and (b);

(d) refile the numerical control cards in the numerical control file in the case of any alien who does not marry the U.S. citizen fiancé(e) but is still interested in obtaining an immigrant visa, since such an alien is entitled to the original priority date; and

(e) At IVACS posts, follow the separately prescribed steps rather than (a) and (b) above. [See 9 FAM PART IV for IVACS procedures].

9 FAM 41.81 PN4 Supporting Documents Placed in Envelope To Be Hand-Carried By Applicant

9 FAM 41.81 PN4.1 Documents Placed in Envelope

Supporting documents, including the K visa petition, birth certificate, duplicate Form OF-156, Supplement to Form OF-156 (including the certificate of legal capacity and intent to marry), and Form OF-157, Medical Examination (in duplicate), should be placed in a sealed envelope and given to the applicant for presentation at the port of entry. (A copy of the Form OF-157 is also to be retained in the applicant's issued visa file.) An accompanying child's documents [see 9 FAM 41.81 PN1] are to be enclosed in the envelope containing the parent's documentation.

9 FAM 41.81 PN4.2 "MED" Notation and Hand-Carried X-Ray

The notation "MED" is to be placed in the lower left corner of the K visa stamp in the following cases:

(a) When the medical examination discloses a Class B tubercular condition; or

(b) When the medical examination discloses a Class A tubercular or other condition and an INA 212(d)(3)(A) waiver has been granted. In these cases, a third copy of the medical report and the X-rays, if a tubercular condition is involved, are also to be placed in a sealed envelope and given to the applicant for presentation at the port of entry. This envelope should be stamped in the following form:

Medical Report (Form OF-157) enclosed

Chest X-ray Film(s) enclosed in this envelope

Not required to be handcarried to the United States

Being reviewed--will be sent to the health facility or physician who is to care for alien

The last item under X-ray film(s) applies only in INA 212(d)(3)(A) waiver cases if the films are away for review.

9 FAM 41.81 PN4.3 Children Following To Join

In the case of children following to join the principal alien who are entitled to K-2 classification, the required documents are to be placed in an envelope together with a copy of the approved K visa petition. A notation of the principal alien's name and date of visa issuance is to be made

immediately below the lower margin of the visa stamp, for example, "Principal alien: Mary Brown, K-1 visa issued November 16, 1984."

9 FAM 41.81 PN5 Petitions Received After Visa Issuance Returned to INS

When a K visa has been issued upon receipt of a cabled authorization and the approved petition is subsequently received, the consular officer should return the petition to the approving office of INS with a memorandum indicating the date of visa issuance.

[See 22 CFR 42.73 PN2.1(c).]

9 FAM 41.81 PN6 Disposition of Form OF-156

Upon issuance of a K visa, the post is to file the original of Form OF-156 in its consolidated card file. The form is to be marked for destruction 1 year from issuance date.

9 FAM 41.81 PN7 Revalidation of Fiance(e) Petition

When a K visa petition is revalidated, the notation "Revalidated to (date)" should be placed in the "Remarks" block of the petition over the signature and title of the consular officer. The date of the revalidation should also be shown.

9 FAM 41.81 PN8 Social Security Registration

Even though a fiance(e) is treated in most respects like an immigrant, posts do not give a fiance(e) the information regarding Social Security registration provided for in 22 CFR 42.73 PN10. This will be done by INS at the time of the alien's adjustment of status.
